**Unofficial Copy** J2

2004 Regular Session 4lr1593 CF 4lr0764

By: Delegate Hurson (Chairman, Health and Government Operations Committee)

Introduced and read first time: January 28, 2004 Assigned to: Health and Government Operations

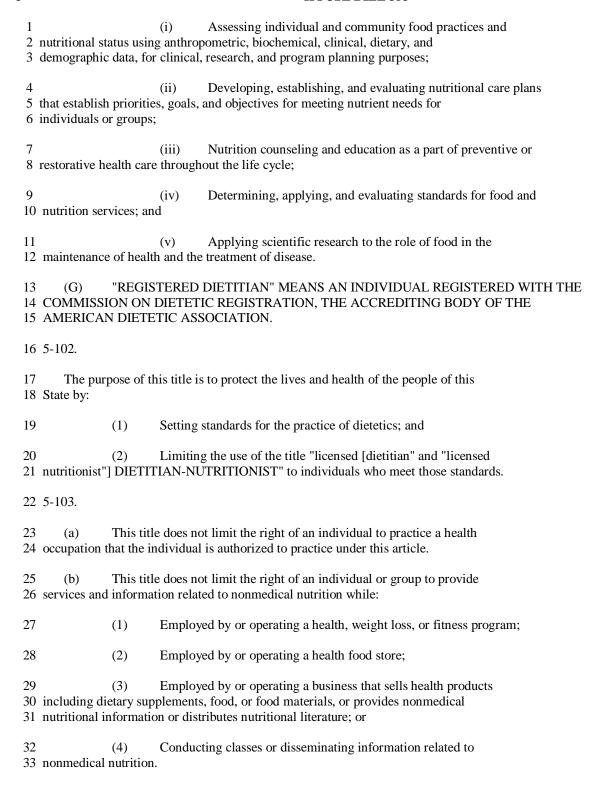
#### A BILL ENTITLED

1	A TAT		•
	$\Delta$ $ \mathbf{X} $	$\Delta U$	concerning
1	$\Gamma$	$\Lambda$ CI	CONCUMINE

3	FOR the purpose of continuing the State Board of Dietetic Practice in accordance with
4	the provisions of the Maryland Program Evaluation Act (Sunset Law) by
5	extending to a certain date the termination of provisions relating to the
6	statutory and regulatory authority of the Board; altering the composition of the
7	Board; altering the nomination process for licensed Board member vacancies;
8	eliminating separate licenses for dietitians and nutritionists; creating a single
9	license for the practice of dietetics; altering certain requirements for licensure;
10	altering certain prohibitions against using certain titles, words, or terms under
11	certain circumstances; requiring that an evaluation of the Board and the
12	statutes and regulations that relate to the Board be performed on or before a
13	certain date; requiring the Board and the Department of Health and Mental
14	Hygiene to submit a certain report to certain committees on or before a certain
15	data: providing continuity for the remainder of the terms for certain Roard

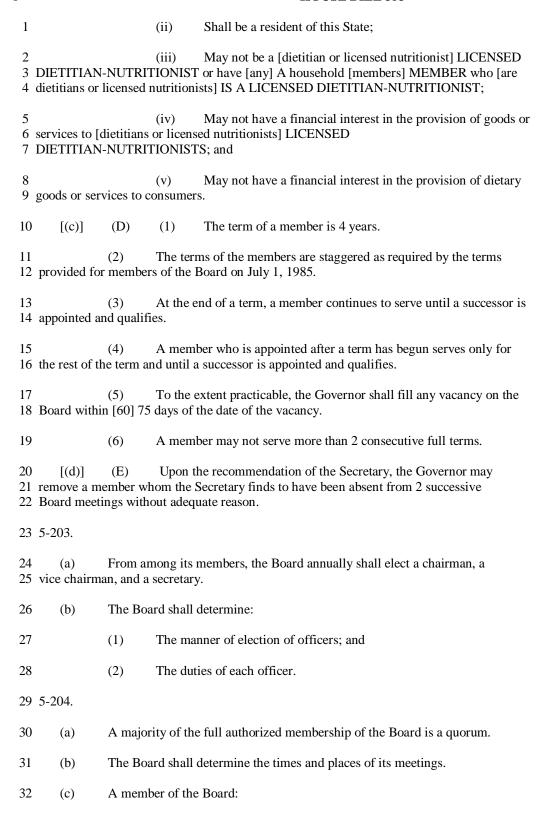
- date; providing continuity for the remainder of the terms for certain Board 15
- 16 members; providing continuity of licensure for certain licensed dietitians and
- 17 licensed nutritionists; providing for renewal of certain licensed dietitians and
- 18 licensed nutritionists as licensed dietitian-nutritionists; providing for
- 19 reinstatement as a licensed dietitian-nutritionist for certain licensed dietitians
- and licensed nutritionists; defining certain terms; altering certain definitions; 20
- and generally relating to the State Board of Dietetic Practice. 21
- 22 BY repealing and reenacting, with amendments,
- 23 Article - Health Occupations
- 24 Section 5-101, 5-102, 5-202, 5-205, 5-301 through 5-303, 5-309, 5-314, 5-402,
- 25 5-501, and 5-502 to be under the amended title "Title 5. Licensed
- 26 Dietitian-Nutritionists"
- Annotated Code of Maryland 27
- (2000 Replacement Volume and 2003 Supplement) 28
- 29 BY repealing and reenacting, without amendments,
- 30 Article - Health Occupations
- 31 Section 5-103, 5-201, 5-203, 5-204, 5-206, 5-304 through 5-308, 5-310

1 2 3	through 5-313, 5-401, and 5-403 Annotated Code of Maryland (2000 Replacement Volume and 2003 Supplement)					
4 5 6 7 8	BY repealing and reenacting, without amendments, Article - State Government Section 8-403(a) Annotated Code of Maryland (1999 Replacement Volume and 2003 Supplement)					
9 10 11 12 13	Section 8-403(b)(18) Annotated Code of Maryland					
14 15	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
16	Article - Health Occupations					
17 18	Title 5. [Dietitians and Licensed Nutritionists] LICENSED DIETITIAN-NUTRITIONISTS.					
19	5-101.					
20	(a) In this subtitle the following words have the meanings indicated.					
21	(b) "Board" means the State Board of Dietetic Practice.					
	(C) "CERTIFIED NUTRITION SPECIALIST" MEANS AN INDIVIDUAL CERTIFIED BY THE CERTIFICATION BOARD FOR NUTRITION SPECIALISTS, THE ACCREDITING BODY OF THE AMERICAN COLLEGE OF NUTRITION.					
25 26	[(c)] (D) ["Dietitian"] "DIETITIAN-NUTRITIONIST" means, unless the context requires otherwise, an individual who is licensed by the Board to practice dietetics.					
27 28	[(d) "Licensed nutritionist" means, unless the context requires otherwise, an individual who is licensed by the Board to practice dietetics.]					
29 30	(e) "License" means, unless the context requires otherwise, a license issued by the Board to practice dietetics.					
	(f) (1) "Practice dietetics" means to apply the principles derived from integrating knowledge of food, biochemistry, physiology, management science, behavioral science, and social science to human nutrition.					
34	(2) "Practice dietetics" includes:					

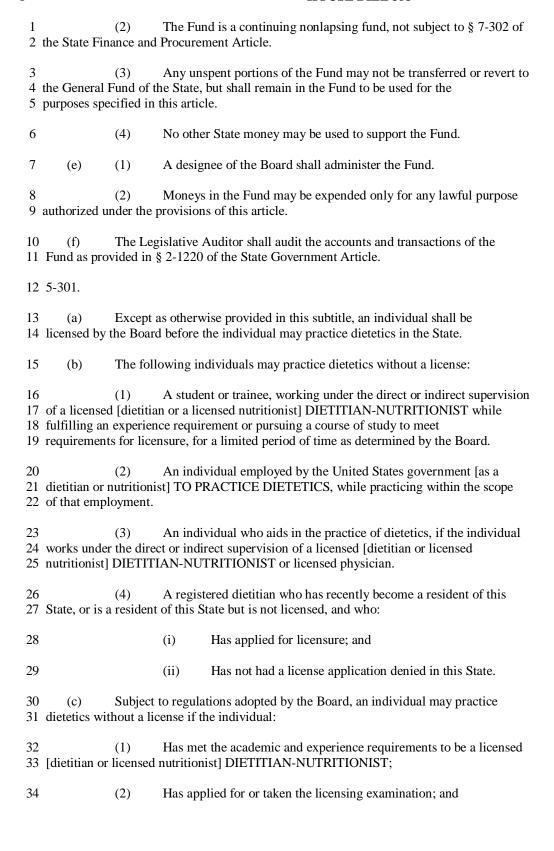


1 2	(c) This title does not limit the right of an individual to provide services related only to the purchasing, preparation, and service of food to groups of people.				
3 4	(d) This title does not nutritional information or to d		ne right of an individual to provide nonmedical nutritional literature.		
5	5-201.				
6	There is a State Board of	Dietetic l	Practice in the Department.		
7	5-202.				
8	(a) (1) The Bo	ard consi	sts of nine members.		
9	(2) Of the	nine Boar	d members:		
	(i) DIETITIAN-NUTRITIONIS practice dietetics in Maryland	TS licens	hall be [dietitians or nutritionists] ed on or after [July 1, 1986] JULY 1, 2004 to ng:		
13 14	practice;	1.	One member who is engaged primarily in clinical dietetic		
15 16	public health dietetic practice	2.	One member who is engaged primarily in community or		
17 18	dietetic practice;	3.	One member who is engaged primarily in administrative		
19 20	dietetic practice;	4.	One member who is engaged primarily in consulting		
21 22	dietetics or nutritional science	5. e; and	One member who is a faculty member in the field of		
23 24	NUTRITION SPECIALISTS	6. and who	Two members who are [licensed nutritionists] CERTIFIED may not be registered dietitians; and		
25	(ii)	Two sh	all be consumer members.		
28 29	Secretary and with the advice Maryland Dietetic Association	TITIAN- and cons on and the	vernor shall appoint the [dietitian and licensed NUTRITIONIST members with the advice of the sent of the Senate from a list submitted [by the Maryland Chapter of the American DED IN SUBSECTION (B) OF THIS SECTION.		
	[(ii) appointment under subparagr the number of vacancies.		of qualified nominees submitted to the Secretary for this paragraph shall be at least three times		

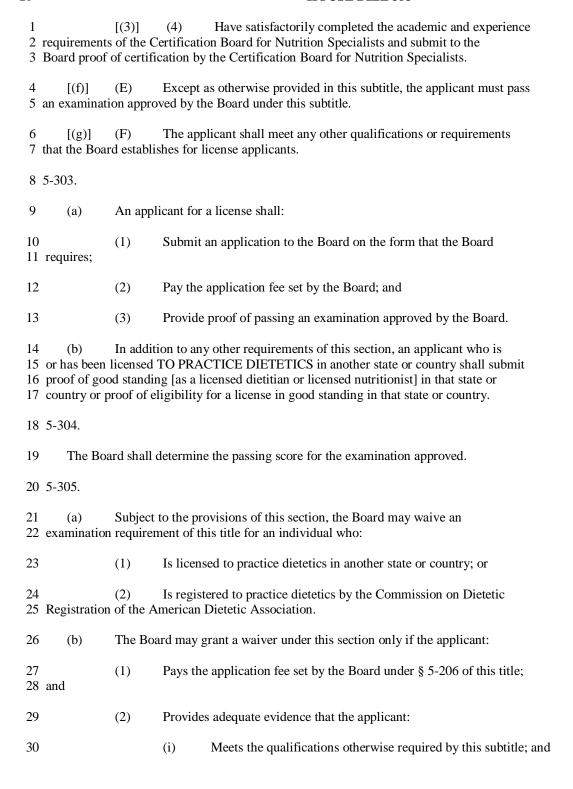
	(4) Dietetic Association a Association shall:		dietitian or licensed nutritionist vacancy, the Maryland faryland Chapter of the American Nutritionists
4 5	vacancy to solicit non	(i) ninations	Notify all dietitians and licensed nutritionists in the State of the to fill the vacancy; and
	nutritionist is eligible submitted to the Gove		Conduct a balloting process where every dietitian and licensed o select the names of the nominees that will be
9 10	(5) the Secretary and the		vernor shall appoint the consumer members with the advice of and consent of the Senate.]
13		MPILE A	ACH LICENSED DIETITIAN-NUTRITIONIST VACANCY, THE A LIST OF NAMES TO BE SUBMITTED TO THE SECRETARY IN SUBSECTION, INCLUDING AT LEAST THREE NAMES FOR S.
		TIONIST	OARD SHALL NOTIFY ALL LICENSED 'S IN THE STATE OF THE VACANCY TO SOLICIT HE VACANCY.
20	NUTRITIONISTS A	SSOCIA ITHIN 30	ARYLAND DIETETIC ASSOCIATION OR THE MARYLAND TION SHALL NOMINATE QUALIFIED INDIVIDUALS TO FILL DAYS AFTER THE NOTICE REQUIRED IN PARAGRAPH (2) OF EN.
24	INDIVIDUAL NOM PARAGRAPH (3) O	INATED F THIS S	ARYLAND DIETETIC ASSOCIATION MAY COMMENT ON AN BY THE MARYLAND NUTRITIONISTS ASSOCIATION UNDER SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND MITTED TO THE SECRETARY.
28	AN INDIVIDUAL N PARAGRAPH (3) O	OMINA' F THIS S	ARYLAND NUTRITIONISTS ASSOCIATION MAY COMMENT ON TED BY THE MARYLAND DIETETIC ASSOCIATION UNDER SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND MITTED TO THE SECRETARY.
30 31		(1) TIONIST	Each [dietitian or licensed nutritionist] LICENSED member of the Board shall:
32		(i)	Be a citizen of the United States;
33		(ii)	Be a resident of the State; and
34		(iii)	Have practiced dietetics for at least 5 of the last 10 years.
35	(2)	The con	sumer member of the Board:
36		(i)	Shall be a citizen of the United States;



1		(1)	May not receive compensation; but
2	Board.	(2)	Is entitled to reimbursement for expenses at a rate determined by the
4 5	(d) 5-205.	The Boa	rd may employ a staff in accordance with the budget of the Board.
6 7	(a) may:	In additi	on to the powers set forth elsewhere in this subtitle, the Board
8		(1)	Adopt regulations to carry out the provisions of this subtitle; and
9		(2)	Sue to enforce any provision of this subtitle by injunction.
10 11	(b) shall:	In additi	on to the duties set forth elsewhere in this subtitle, the Board
12 13		(1) I-NUTRI	Keep a list of all [dietitians and nutritionists] ΓΙΟΝΙSTS who are currently licensed;
14		(2)	Keep a record of its proceedings; and
15 16	year to the C	(3) Governor	Submit an annual report of its transactions for the previous fiscal by September 30 of each year.
17	5-206.		
18	(a)	There is	a State Board of Dietetic Practice Fund.
19 20	(b) licenses.	(1)	The Board may set reasonable fees for the issuance and renewal of
21 22	maintaining	(2) the Board	The fees charged shall be set so as to approximate the cost of d.
23 24	by fees set u	(3) ander this	Funds to cover the expenses of the Board members shall be generated section.
25 26	(c) Comptroller	(1) of the St	The Board shall pay all funds collected under this title to the ate.
27 28	Dietetic Prac	(2) ctice Fund	The Comptroller shall distribute the funds to the State Board of d.
			The Fund shall be used to cover the actual documented direct and ling the statutory and regulatory duties of the Board as provided his article.



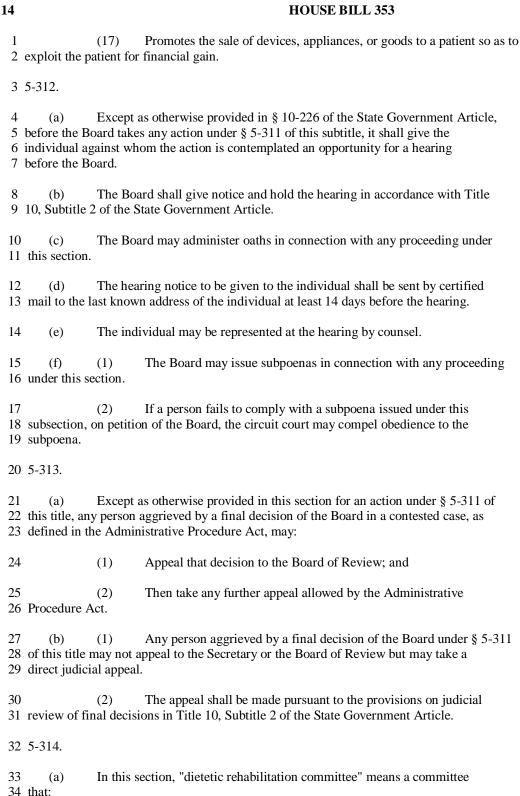
1		(3)	Is awaiting notification of the examination results.
2	5-302.		
3 4	(a) requirements		ify for a license, an applicant shall be an individual who meets the section.
5	(b)	The app	plicant must be of good moral character.
6	(c)	The app	plicant must be at least 18 years old.
7 8	(d) shall:	The app	olicant for licensure as a [dietitian] DIETITIAN-NUTRITIONIST
9 10	field of diete	(1) etics as a	(i) Have satisfactorily completed academic requirements for the pproved by the Board;
11 12	college or un	niversity	(ii) Have received a baccalaureate degree or a higher degree from a approved by the Board; and
			(iii) Have satisfactorily completed a program of supervised clinical by the Commission on Dietetic Registration of the American or a comparable experience approved by the Board;
16 17	Dietetic Reg	[(2) gistration	Submit to the Board proof of registration through the Commission on of the American Dietetic Association; or
18		(3)	Meet the requirements of subsection (e)(2) or (3) of this section.
19	(e)	The app	plicant for licensure as a licensed nutritionist shall:
20		(1)	Meet the requirements of subsection (d)(1) or (2) of this section;]
23 24	Post-Second nutrition), for	lary Accı ood and r	(i) Have received a master's or doctoral degree from a college or by a regional accrediting body recognized by the Council on reditation in nutritional sciences (with emphasis in human nutrition, dietetics, human nutrition, community nutrition, on, or equivalent training approved by the Board; and
26 27	component i	in dieteti	(ii) Have satisfactorily completed a Board approved experience c or nutritionist practice which:
28			1. Consists of not less than 900 hours; and
29 30	completing	a master'	2. Includes the human clinical experience gained while s or doctoral degree; [or]
	COMMISSI ASSOCIAT		SUBMIT TO THE BOARD PROOF OF REGISTRATION THROUGH THE DIETETIC REGISTRATION OF THE AMERICAN DIETETIC



			(ii) 1. Became licensed in the other state or country after or country, an examination that the Board determines to be mination for which the applicant is seeking the waiver; or
			2. Became registered by the Commission on Dietetic nerican Dietetic Association after meeting the examination of that Commission or its predecessor.
7	5-306.		
8 9	(a) send the app		plicant qualifies for a license under this subtitle, the Board shall otice that specifies that:
10		(1)	The applicant has qualified for a license; and
11 12	license to th	(2) e applica	On receipt of the license fee set by the Board, the Board will issue a nt.
13 14	` '		nent of the license fee, the Board shall issue a license to any the requirements of this subtitle.
15	(c)	The Boa	ard shall include on each license that the Board issues:
16		(1)	The full name of the licensee;
17		(2)	A serial number assigned by the Board to the licensee; and
18 19	5-307.	(3)	The signature of the chairman of the Board, under seal of the Board.
20 21	A licens effective.	e authori	zes the licensee to practice dietetics while the license is
22	5-308.		
23 24		(1) a license	Unless the license is renewed for an additional term as provided in expires on the date set by the Board.
25		(2)	A license may not be renewed for a term longer than 2 years.
	` '		1 month before the license expires, the Board shall send to the s mail to the last known address of the licensee, a renewal notice
29		(1)	The date on which the current license expires;
30 31		(2) to be issu	The date by which the Board must receive the renewal application for and mailed before the license expires; and
32		(3)	The amount of the renewal fee.

1 2		ore the license expires, the licensee periodically may renew it for an term, if the licensee:
3	(1)	Otherwise is entitled to be licensed;
4	(2)	Pays to the Board a renewal fee set by the Board; and
5	(3)	Submits to the Board:
6		(i) A renewal application on the form that the Board requires; and
7 8	education require	(ii) Satisfactory evidence of compliance with the continuing ments for license renewal set by the Board under this section.
	the Board, the Bo	ddition to any other qualifications and requirements established by pard shall establish continuing education requirements as a renewal of licenses under this section.
12 13	(e) The requirements of the	Board shall renew the license of each licensee who meets the his section.
14	5-309.	
	[dietitian or nutri	n accordance with its regulations, shall reinstate the license of a tionist] DIETITIAN-NUTRITIONIST who has failed to renew the eason if the [dietitian or nutritionist] DIETITIAN-NUTRITIONIST:
18	(1)	Meets the renewal requirements of § 5-308 of this subtitle;
19	(2)	Pays to the Board the reinstatement fee set by the Board; and
	(3) qualifications an reinstatements.	Submits to the Board satisfactory evidence of compliance with the d requirements established under this subtitle for license
23	5-310.	
24 25		h licensee shall produce a valid license when requested to do so by an tial employer or client.
26 27	(b) Eac 5-311.	h licensee shall give the Board written notice of any change of address.
30	affirmative vote	e hearing provisions of § 5-312 of this subtitle, the Board, on the of a majority of its members then serving, may deny a license to any and any licensee, or suspend or revoke a license if the applicant or
32 33	(1) for the applicant	Fraudulently or deceptively obtains or attempts to obtain a license or licensee or for another;

1	(2)	Fraudulently or deceptively uses a license;
2 3	this title; (3)	Violates any provision of this title or any regulations adopted under
		Refuses, withholds from, denies, or discriminates against and to the provision of professional service for which the licensee is to render because the individual is HIV positive;
7	(5)	Commits fraud or deceit in the practice of dietetics;
	(6) involving moral turpi to have the conviction	Is convicted of or pleads nolo contendere to a felony or to a crime tude, whether or not any appeal or other proceeding is pending n or plea set aside;
11 12	(7) misrepresentation;	Obtains or attempts to obtain a fee through fraud or
13 14	(8) to practice a health of	Employs any person to practice dietetics whose license or certificate ccupation under this article has been suspended;
		Intentionally uses or promotes or causes the use of any misleading, ful advertising matter, or promotional literature, testimonial, label, brand, insignia, or other representation;
18 19	(10) and regulations of th	Commits any act of unprofessional conduct, as defined by the rules e Board, or violates the code of ethics adopted by the Board;
20	(11)	Provides professional services while:
21		(i) Under the influence of alcohol; or
		(ii) Using any narcotic or controlled dangerous substance, as the Criminal Law Article, or other drug that is in excess of or without valid medical indication;
		Is disciplined by a licensing or disciplinary authority of any other privicted or disciplined by a court of any other state or country for grounds for disciplinary action under this section;
28 29	(13) an unauthorized pers	Practices dietetics with an unauthorized person or supervises or aids on in the practice of dietetics;
		Willfully fails to file or record any report or record as required by law tetics, willfully impedes or obstructs the filing or recording of the induces another to fail to file or record the report or record;
33	(15)	Submits a false statement to collect a fee;
34	(16)	Is professionally, physically, or mentally incompetent; or



1		(1)	Is defined in subsection (b) of this section; and
2		(2)	Performs any of the functions listed in subsection (d) of this section.
3	(b) committee of		poses of this section, a dietetic rehabilitation committee is a rd or a committee:
5		(1)	Composed equally of members of:
6			(i) The Maryland Dietetic Association; and
7			(ii) The American Nutritionists Association;
8		(2)	Recognized by the Board; and
9 10	DIETITIAN	(3) I-NUTRI	That includes but is not limited to [dietitians and nutritionists] ΓΙΟΝΙSTS.
11 12	(c) function:	A rehab	ilitation committee of the Board or recognized by the Board may
13		(1)	Solely for the Board; or
14 15	or boards.	(2)	Jointly with a rehabilitation committee representing another board
18 19	and any other	s assistan er individ n for alco	coses of this section, a dietetic rehabilitation committee evaluates ce to any [dietitian, nutritionist,] DIETITIAN-NUTRITIONIST ual regulated by the Board in need of treatment and sholism, drug abuse, chemical dependency, or other physical, condition.
23	not admissib	ole in evi	Except as otherwise provided in this subsection, the proceedings, he dietetic rehabilitation committee are not discoverable and are dence in any civil action arising out of matters that are being or and evaluated by the dietetic rehabilitation committee.
			Paragraph (1) of this subsection does not apply to any record or sidered by the dietetic rehabilitation committee and that ubject to discovery or introduction into evidence in a civil action.
28 29	proceeding l	(3) before the	For purposes of this subsection, civil action does not include a e Board or judicial review of a proceeding before the Board.
32	dietetic reha	bilitation bilitation	n who acts in good faith and within the scope of jurisdiction of a committee is not civilly liable for any action as a member of the committee or for giving information to, participating in, or nction of the dietetic rehabilitation committee.

- 1 5-401.
- 2 Except as otherwise provided in this title, a person may not practice, attempt to
- 3 practice, or offer to practice dietetics in the State unless licensed by the Board.
- 4 5-402.
- 5 (a) Except as otherwise provided under this title, a person may not represent
- 6 or imply to the public by use of the title ["licensed dietitian", or "licensed
- 7 nutritionist"] "LICENSED DIETITIAN-NUTRITIONIST", by other title, by description of
- 8 services, methods, or procedures that the person is authorized to practice dietetics in
- 9 the State.
- 10 (b) Unless authorized to practice dietetics under this title, a person may not
- 11 use the words or terms "DIETITIAN-NUTRITIONIST", "LICENSED
- 12 DIETITIAN-NUTRITIONIST", "LDN", "dietitian", "licensed dietitian", "D", "LD",
- 13 "NUTRITIONIST", "licensed nutritionist", or "LN".
- 14 5-403.
- A person who violates § 5-401 or § 5-402 of this subtitle is guilty of a
- 16 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
- 17 imprisonment not exceeding 1 year or both.
- 18 5-501.
- This title may be cited as the "Maryland [Dietitians and Licensed Nutritionists]
- 20 LICENSED DIETITIAN-NUTRITIONISTS Act".
- 21 5-502.
- 22 Subject to the evaluation and reestablishment provisions of the Maryland
- 23 Program Evaluation Act, this title and all regulations adopted under this title shall
- 24 terminate and be of no effect after July 1, [2005] 2015.
- 25 Article State Government
- 26 8-403.
- 27 (a) On or before December 15 of the 2nd year before the evaluation date of a
- 28 governmental activity or unit, the Legislative Policy Committee, based on a
- 29 preliminary evaluation, may waive as unnecessary the evaluation required under this
- 30 section.
- 31 (b) Except as otherwise provided in subsection (a) of this section, on or before
- 32 the evaluation date for the following governmental activities or units, an evaluation
- 33 shall be made of the following governmental activities or units and the statutes and
- 34 regulations that relate to the governmental activities or units:

- 1 (18) Dietetic Practice, State Board of (§ 5-201 of the Health Occupations 2 Article: July 1, [2004] 2014);
- 3 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
- 4 Dietetic Practice and the Department of Health and Mental Hygiene shall report to
- 5 the Senate Education, Health, and Environmental Affairs Committee and the House
- 6 Health and Government Operations Committee on or before October 1, 2004, in
- 7 accordance with § 2-1246 of the State Government Article, on the implementation of
- 8 the recommendations of the Department of Legislative Services contained in the
- 9 sunset evaluation report dated October 2003.
- SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section
- 11 1 of this Act, a member of the State Board of Dietetic Practice whose term as of June
- 12 30, 2004 was to terminate after July 1, 2004, shall continue to serve the remainder of
- 13 the term, or until the member's successor is appointed.
- 14 SECTION 4. AND BE IT FURTHER ENACTED, That an individual licensed as
- 15 a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004, in
- 16 all respects, shall be considered licensed by the State Board of Dietetic Practice and,
- 17 subject to the provisions of this Act, for the remainder of the term of the individual's
- 18 license. On expiration of the individual's license, the individual may qualify for
- 19 renewal of a license under § 5-308 of the Health Occupations Article as if the
- 20 individual had been licensed as a dietitian-nutritionist by the State Board of Dietetic
- 21 Practice.
- 22 SECTION 5. AND BE IT FURTHER ENACTED, That if an individual licensed
- 23 as a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004
- 24 fails to timely renew the license, the individual may qualify for reinstatement of the
- 25 license under § 5-309 of the Health Occupations Article as if the individual had been
- 26 licensed as a dietitian-nutritionist by the State Board of Dietetic Practice.
- 27 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect 28 July 1, 2004.